

**From:** Russell Hemati  
**To:** Microsoft ATR  
**Date:** 1/23/02 1:28pm  
**Subject:** Microsoft Settlement

Dear Sir or Madam,

I was originally very excited about a proposed settlement between the DOJ and Microsoft. I mainly thought it was a good idea since after having the crimes of the company upheld by an appeals court, I naturally assumed that this was the only way to keep the upper echelons of the company out of federal prison. Imagine my surprise when I found out that the DOJ had lost their nerve in prosecuting the most illegal monopoly of all time.

After reading the proposed settlement between the DOJ and Microsoft, I am convinced that it must be rewritten from the ground up. After 15 years of computer consulting, including developing for Windows as well as Linux and helping support those who develop on the Apple platform, I still do not consider myself to have mastered every nuance of systems integration - much less the computer market as a whole. I do, however, know enough to realize that regardless of how brilliant or qualified the lawyers who drafted this settlement are, they require more training in computer terminology and software engineering. They also require themselves to ask seriously - is this settlement

There are numerous technical problems with this settlement, the most important being that it allows Microsoft to keep the monopoly it already has and at best attempts to limit the speed at which it acquires new monopolies. Having watched Windows XP turn into a way to market Microsoft's other products (usually offered at a loss) and the sale of the X-Box \_under\_ cost (as much as \$100), it seems that any software company (and now with the X-Box - any hardware company) that does not have the ability to sell its products under cost or give them away for free while being kept profitable by inflating the prices of other products that often the consumer cannot refuse to buy - any company that cannot do this will not succeed. Even if they can (such as the possible exception of Java), because their "competitor" is the company that they depend on to make the system that runs their program, they will not succeed because this "competitor" makes their system incompatible with yours while simultaneously offering their own alternative to your customers. Standard Oil was nailed to the wall for this, the proposed settlement is not just lenient - its SILENT!

We are nearing the point when nobody, not even the government of the US, can stand up to Microsoft. The settlement is a joke, it doesn't do anything at all about the illegal monopoly Microsoft already has (a ruling upheld by the appeals court). No other criminal I know could settle this easily after already being declared guilty. No convicted bank robber would be told that he can keep his money and should just rob fewer banks per month.

Also, when Microsoft asked for part of its settlement to include government

mandated installation of its software in one of its few last competitor's main market (schools - Apple), it demonstrated its brazen practices. Any reasonable person should be able to realize the predatory nature of such a company. Please do not let the difficulties in the economy cloud this decision. Microsoft is a very valuable company - if you have any tech related mutual funds you probably own a piece of them anyway. They have managed to hire a great many intelligent and qualified people. Microsoft can compete in an open market. To say that they can't compete in an open market is to say that they haven't been, since they are indeed successful. One of the reasons that the software market is so bleak is because most of the incentive for creating and then profiting from software has been and is still being sucked dry by a company that will not stop until it is the only technology company. A free market cannot exist without competition. If the intention of the DOJ is to do their part in restoring the computer technology market, they cannot hide behind Microsoft.

I am a capitalist. I believe in business both big and small. I also believe that we are a nation of laws. Because the DOJ is about to allow one of the most nefarious criminal entities to go free, it is in danger of presenting itself to history as only attempting to prosecute the little guy - the individuals and small companies while the big guy - the one who could influence their own pocketbooks with it success or demise - this one they are too scared to touch.

You are the United States government. You are there to protect individuals and companies. You are there to protect our free market. Do your duty and protect us. Stop the Microsoft monopoly with more than this travesty. Make them give back what they illegally took from the people, the companies, and the market. Make them give back what they took from you - the DOJ - since you are undoubtedly one of their customers and have been suffering from lack of choice and poor quality. Do your duty. Make us all proud we elected your superiors.

Russell Hemati

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